

AO 106 (Rev. 04/10) Application for a Search Warrant

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

DVD containing November 5, 2019, download of the encrypted compressed
storage file containing the content of the Facebook user account associated
with "Stacy Garnette" and Facebook user ID: 100001999368961 which is in
secure storage at the Rapid City Office of the Federal Bureau of
Investigation

Case No. 5:19-md-136

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under
penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the
property to be searched and give its location):
See Attachments A & B

located in the _____ District of _____ South Dakota, there is now concealed (identify the
person or describe the property to be seized);
See Attachments A & B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):
☒ evidence of a crime;

☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;

☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. §§ 2243 and 1153	Sexual Abuse of a Minor
18 U.S.C. § 2251(a)	Solicitation of Child Pornography

The application is based on these facts:

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested
under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

FBI SA Chris Reinke

Printed name and title

Sworn to before me and signed via reliable electronic communication.

Date: 11/06/2019

City and state: Rapid City, SD

Judge's signature

Daneta Wollmann, U.S. Magistrate Judge
Printed name and title

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of)

(Briefly describe the property to be searched
or identify the person by name and address)

Case No. 5:19-mj-136

DVD containing November 5, 2019, download of the encrypted
compressed storage file containing the content of the Facebook user
account associated with "Stacy Garnette" and Facebook user ID:
100001999368961 which is in secure storage at the Rapid City Office)
of the Federal Bureau of Investigation

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the _____ District of _____ South Dakota
(identify the person or describe the property to be searched and give its location):

DVD containing November 5, 2019, download of the encrypted compressed storage file containing the content of the
Facebook user account associated with "Stacy Garnette" and Facebook user ID: 100001999368961 which is in secure
storage at the Rapid City Office of the Federal Bureau of Investigation

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal (identify the person or describe the property to be seized):
evidence of a crime (incorporate Attachments A & B)

YOU ARE COMMANDED to execute this warrant on or before November 20, 2019 (not to exceed 14 days)
☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to Daneta Wollmann
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of _____

Date and time issued: 11/06/2019 10:00 am


Judge's signature

City and state: Rapid City, SD

Daneta Wollmann, U.S. Magistrate Judge
Printed name and title

cc: AUSA Poppen
CWR

Printed name and title

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

IN THE MATTER OF THE SEARCH
OF: DVD containing November 5,
2019, download of the encrypted
compressed storage file containing
the content of the Facebook user
account associated with "Stacy
Garnette" and Facebook user ID:
100001999368961 which is in secure
storage at the Rapid City Office of the
Federal Bureau of Investigation.

Case No. 5:19-MJ-136

Filed Under Seal

REDACTED

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

State of South Dakota)
) ss
County of Pennington)

I, Chris Reinke, Special Agent of the Federal Bureau of Investigation FBI
being duly sworn, states as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), and I am assigned to the Rapid City Resident Agency, Rapid City, South Dakota. I have approximately five years of law enforcement experience with the FBI as a Special Agent. During that time, I have investigated federal crimes occurring within Indian country, including violations of 18 U.S.C. §§ 2243 and 1153, Sexual Abuse of a Minor.

2. The information set forth below is based upon my knowledge of an investigation conducted by the FBI and the investigation of other law enforcement agents and officers. I have not included each and every fact obtained pursuant to this investigation, but have set forth those facts that I believe are essential to establish the necessary probable cause for the issuance of the search warrant.

3. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under Sexual Abuse of a Minor, in violation of 18 U.S.C. §§ 2243 and 1153, Sexual Exploitation of Children, in violation of 18 U.S.C. § 2251(a), and Solicitation of Child Pornography, in violation of 2252A(a)(3)(B)(i), (hereinafter "Target Offenses") to require Facebook to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the user ID, as described in Attachment B.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient

probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

5. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that evidence of violations of the Target Offenses are present in the account of Facebook user ID: 100001999368961 that is stored at premises controlled by Facebook Inc. (hereinafter "the account"). There is also probable cause to search the information described in Attachment A for evidence, contraband, or fruits of these crimes, as further described in Attachment B.

6. Your affiant respectfully submits that there is probable cause to believe that Stacy Garnette committed the Target Offenses and that there is evidence of the crimes of the Target Offenses in the Facebook account bearing User ID: 100001999368961, and that evidence of those crimes will be found in the content of the encrypted compressed storage file provided to me on Facebook's law enforcement portal in response to a previous search warrant. I thereafter downloaded the file, but did not review the contents of the file, nor did I provide access to the file for anyone else to view. The downloaded file is currently in the possession of the FBI. This affidavit is sought to search the contents of the downloaded file.

7. Encrypted compressed storage file" as used herein, refers to a computer file whose contents of one or more files are compressed for storage or

transmission, one example is a “zip file.” The compressed storage file is used to large files or multiple files into one file for ease of transfer. The ESPs create the file then provide access to the file to law enforcement typically via the ESP’s law enforcement portal.

8. “Zip file,” as used herein is a type of “Encrypted compressed storage file,” defined above in paragraph 1.

9. From my training and experience, I am aware that when Electronic Service Providers, like Facebook, provide access to an encrypted compressed storage file, typically a zip file, on its law enforcement portal. The link is to a file that is limited to the content of the account authorized by the search warrant and no other accounts.

10. It is my understanding that I must seek this additional warrant to review the responsive materials out of an abundance of caution to comply with the issue raised in the recent decision in *United States v. Nyah*, 928 F.3d 694 (8th Cir. 2019).

PROBABLE CAUSE

11. [REDACTED], date of birth, [REDACTED], is currently 16 ½ years of age and lives with her grandmother Debbie Bluebird on the Pine Ridge Reservation.

12. [REDACTED] is currently enrolled in High School at Pine Ridge High School. Prior to attending Pine Ridge High School, [REDACTED] attended high school

at Red Cloud Indian School and Kindergarten through eighth grade at Batesland School.

13. [REDACTED] is on the Pine Ridge High School basketball team. [REDACTED] also played basketball for Red Cloud Indian School and Batesland School. [REDACTED] owns an iPhone 10, phone number is 605-899-2631.

14. Stacy Garnette (Garnette), a/k/a Stacey Garnette, date of birth [REDACTED], is currently 41 years of age. Garnette's phone number is 605-441-1884. Garnette is currently employed by Red Cloud Indian School to drive students to and from school. Garnette typically drives a SUV or suburban type vehicle when transporting students to and from school. Garnette used to transport students to and from school at Batesland prior to being employed by Red Cloud Indian School.

15. Garnette also drove bus and coached basketball for the Red Cloud Indian School girls basketball team. Prior to coaching at Red Cloud, Garnette also coached basketball at Batesland School and for a Pine Ridge Indian Reservation girls basketball traveling team. Garnette was [REDACTED]'s coach on both teams.

16. Danielle Conroy is employed by the Oglala Sioux Tribe Department of Public Safety as a law enforcement officer. Conroy was married to Garnette from 2007 until 2011, when they divorced, though the two still lived together until August 2018.

17. On August 2, 2019, Officer Conroy was at a training event in Georgia when she received information from her brother, Eric Conroy, that Garnette was in a sexual relationship with [REDACTED]. Eric Conroy is currently dating [REDACTED]'s mother. On or about August 17, 2019, Officer Conroy reported the information to the Oglala Sioux Tribe Department of Public Safety. On August 22, 2019, Officer Conroy wrote a one-page memo and provided the statement to Officer Clayton Ten Fingers. On or about August 30, 2019, the information was forwarded to Federal Bureau of Investigation Special Agent Christopher Reinke.

18. Your affiant preserved the various Facebook accounts associated with [REDACTED] and Garnette on or about September 3, 2019. Garnette's Facebook account was created on July 24, 2019 and only captured [REDACTED] and Garnette's communication after that date. Through the course of the investigation, your affiant learned that Garnette and [REDACTED] communicated throughout 2018 via two of [REDACTED]'s Facebook accounts: user ID 100012433511632 and user ID: 100024650205352. Garnette had another, older Facebook account, 100001999368961, that he discontinued use in late 2018 when [REDACTED] and Garnette began communicating via a different medium. On or about October 3, 2019, your affiant requested Facebook preserve the account, user ID: 100001999368961.

19. Your affiant reviewed [REDACTED]'s Facebook accounts (user ID 100012433511632 and user ID: 100024650205352) in which she and Garnette

corresponded with each other and Garnette used user ID: 100001999368961, the Target Account.

20. On September 19, 2019, [REDACTED] spoke with child forensic interviewer Brandi Tonkel.

21. [REDACTED] told Ms. Tonkel that she and Garnette had engaged in non-forcible sexual intercourse on at least four occasions during the summer of 2018. [REDACTED] would have been approximately 15 years of age during the summer of 2018. [REDACTED] told Ms. Tonkel that during the summer of 2018 – Garnette and [REDACTED] engaged in nonforcible penile-vaginal sexual intercourse in the backseat of his vehicle in a rural area near Batesland.

22. On August 30, 2019, SA Reinke interviewed [REDACTED]'s sister, Kianna Big Crow. Big Crow told SA Reinke that she learned that [REDACTED] and Garnette were in a romantic relationship during the summer of 2018. Big Crow told SA Reinke that [REDACTED] told her that the relationship started in the fall of 2017, when [REDACTED] was approximately 14 years old. [REDACTED] showed Big Crow photos of herself ([REDACTED]) with Garnette. The photos were on Facebook Messenger and Snapchat. The photos showed the couple – [REDACTED] and Garnette – posing as a couple, kissing, etc. Big Crow also told SA Reinke that she saw text messages and phone calls being exchanged between [REDACTED] and Garnette. Big Crow also told SA Reinke that she was aware that [REDACTED] had taken the “morning after” birth control pill on multiple occasions after having sexual intercourse with Garnette.

23. During the August 30, 2019, interview, Big Crow told SA Reinke that [REDACTED] and Garnette messaged each other on Facebook Messenger until an unspecified time when they feared that Garnette's ex-wife – Officer Conroy – may have access to his Facebook account. Big Crow also told SA Reinke that [REDACTED] and Garnette used Snapchat to converse with each other. Thereafter, [REDACTED] and Garnette communicated via text message.

24. In approximately June or July 2019, [REDACTED]'s grandmother observed a text message displayed on [REDACTED]'s phone. The message was from Garnette and stated: "Want me to come sleep with you[?]" The message was received by [REDACTED]'s phone at approximately 2:00 a.m. [REDACTED]'s grandmother then sent Garnette a message asking why he (Garnette) was contacting [REDACTED]. Garnette stated that he was looking for [REDACTED]'s father.

25. On September 20, 2019, a consensual download of [REDACTED]'s phone showed the absence of any text messages or phone calls between [REDACTED] and Garnette. Big Crow told SA Reinke that [REDACTED] had deleted numerous items on her phone in summer 2019. Your affiant observed what appeared to be two thumbnail photos of [REDACTED] topless on a bed. Your affiant believes these were videos from Snapchat or Messenger. Your affiant learned from Big Crow that [REDACTED] showed her (Big Crow) a picture on her phone of [REDACTED] topless. Garnette covered [REDACTED]'s breasts with his hand.

26. Your affiant believes there is probable cause to believe that the Facebook account will yield evidence of the crimes of Sexual Abuse of a Minor,

in violation of 18 U.S.C. §§ 2243 and 1153, as well as Sexual Exploitation of Children, in violation of 18 U.S.C. §§ 2251(a) and 1153, and Solicitation of Child Pornography, in violation of 2252A(a)(3)(B)(i) and 1153, based on information provided by witnesses and [REDACTED].

27. On October 18, 2019, your affiant sought and obtained a search warrant for the Facebook account at issue. Your affiant executed the court's search warrant the same day by serving it on Facebook via its law enforcement portal. Facebook did not provide the responsive materials within 14 days of the issuance of this Court's search warrant. Your affiant received the original return from Facebook on that search warrant on November 4, 2019. On November 5th, your affiant's office downloaded the files with success. The information was in the form of a zip file, a PDF file, and included a Certificate of Authenticity. Your affiant's office printed the Certificate of Authenticity, then burned the zip file and PDF file to a DVD on that same date, November 5, 2019.

28. Although the information was accessed, it was accessed solely for the purpose of confirming the file is accessible. To date, no parties to this warrant have reviewed the material contained on the DVD. Your affiant has not opened or analyzed the content and has not provided access to any other person to review the content of the file. The encrypted compressed storage file is being held securely at the FBI office in Rapid City, awaiting this search warrant.

29. Your affiant, in consideration of the recent development in the Eighth Circuit, the *Nyah* decision of June 26, 2019, submits this request to search the

DVD created on November 5, 2019, which contains the material provided by Facebook which was received by your affiant's office outside the 14-day window on the original search warrant dated October 18, 2019.

INFORMATION ON FACEBOOK

30. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows individuals to specifically communicate with another person through a Facebook application called "Messenger." In my training and experience, people who engage in online criminal activity often also utilize Facebook to meet victims and other offenders and to chat. Even if Facebook was not utilized in the chat at issue, there is probable cause to believe there will be evidence regarding the online solicitation of minors within the target Facebook account.

31. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

32. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip

code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

33. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

34. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

35. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

36. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

37. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

38. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.

39. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.

40. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things. Each Facebook account has an activity log, which is a list of the user's posts and other

Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but people who visit the user’s Facebook page cannot view it.

41. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

42. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

43. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

44. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given

user can include the following information from the user's profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications.

45. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

46. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking

providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

47. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's "Neoprint," IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the user accessed or used the account. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining, the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under

investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

48. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

49. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content

of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

REQUEST/JUSTIFICATION FOR ORDER OF NONDISCLOSURE

50. The United States respectfully applies for an order of nondisclosure to Facebook under 18 U.S.C. § 2705(b) regarding the account associated with Facebook user STACEY GARNETTE WITH FACEBOOK USER ID: 100001999368961, that is stored at premises controlled by Facebook Inc. (hereinafter “the account”). The United States is seeking this search warrant for user information, including all names, addresses, IP addresses, including historical, telephone numbers, other email addresses, information on length and types of services and any means of payment related to these accounts under the authority given by 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A). Based on § 2703(c)(3), the United States is not required to provide notice to the subscriber. Under § 2705(b), the United States may apply to the court for an order commanding Facebook not to notify the subscriber of the existence of the search warrant. The court may decide what length of time shall apply to the order of nondisclosure if the court determines the notification to the subscriber could result in one of the five factors listed in the statute, which includes destruction of or tampering with evidence. 18 U.S.C. § 2705(b)(3). The basis for the request is that such disclosure could cause any person with access to the

accounts, or any related account or account information, to tamper with or modify the content or account information and thereby destroy or tamper with evidence and otherwise seriously jeopardize the investigation. Especially due to the ease of access to Facebook, its content can be modified by persons with internet access and sufficient account information. As such, the United States respectfully requests this Court enter an order commanding Facebook not to notify the user of the existence of this warrant.

REQUEST FOR SEALING

51. I request that the Court order that all papers submitted in support of this application, including this affidavit, the application, the warrant, and the Order itself, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may give targets an opportunity to flee, destroy or tamper with evidence, change patterns of behavior, notify confederates, or otherwise seriously jeopardize the investigation.


CONCLUSION

52. Based on the forgoing, I request that the Court issue the proposed search warrant.

53. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A).

54. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Dated: November 6, 2019


Chris Reinke, Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to via reliable electronic communication
this 6th day of November, 2019.


DANETA WOLLMANN
U.S. MAGISTRATE JUDGE

ATTACHMENT A

Property to Be Searched

This warrant applies to the DVD containing the August 21, 2019, download of the encrypted compressed storage file containing the content of the Facebook user account associated with the user name Stacey Garnette with FACEBOOK USER ID: 100001999368961, which is in secure storage at the Rapid City Office of the Federal Bureau of Investigation.

ATTACHMENT B

Particular Things to be Seized

All information described below that constitutes fruits, evidence and instrumentalities of violations of the Target Offenses from August 1, 2017, until the date of the warrant for the user ID listed in Attachment A:

- (a) All contact and personal identifying information, including for:
STACEY GARNETTE WITH FACEBOOK USER ID:
100001999368961: full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests;

comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);

- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.
- (q) Any and all geo location data information.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS
PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11) & (13)**

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Facebook, and my official title is _____. I am a custodian of records for Facebook. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Facebook, and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

- a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of Facebook; and
- c. such records were made by Facebook as a regular practice.

I further state that this certification is intended to satisfy Rule 902(11) & (13) of the Federal Rules of Evidence.

Date

Signature